IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 326/2002
(Krishan Lal Vs. State of Rajasthan)

Date of Order : 11/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Mridul Jain for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. Petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 21.3.2002 passed by Sessions Judge, Hanumangarh (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 4.10.2001 passed by Chief Judicial Magistrate, Hanumangarh (for short 'the trial court' hereinafter) was dismissed.

By order dated 4.10.2001 the trial court framed the charge against the petitioner for the offence under Section 3/7 of the Essential Commodities Act. That order came to be challenged by the petitioner by way of a revision under Section 397 Cr.P.C. before the trial court. The revisional court by an elaborate and well reasoned order, dismissed the revision.

I have heard learned counsel for the petitioner and the public prosecutor for the State. Carefully gone through the orders passed by the trial court as well as by the revisional court.

On 21.5.1995, Enforcement Inspector checked the shop and found the present petitioner as also one Birbal Ram who is partner of the firm, in possession of the 3120 liters of Kerosene oil without there being a valid permit. The said kerosene oil was seized and various Fards were prepared by the Enforcement Inspector. The matter was reported to the police. The matter was investigated and after investigation, police filed challan.

It is contended by learned counsel for the petitioner that though the petitioner was present which is prima-facie evident from the material on record, but the petitioner was not the partner of the firm and the partner of the firm Birbal Ram did not challenge the order framing charge. However, learned counsel submits that the other partner of the firm is Smt. Neelam Rani who is wife of the present petitioner.

From the perusal of the record, it appears that it was the petitioner who along with co-accused Birbal Ram have been running the shop though one of the partner of the shop is wife of the petitioner. Both the courts below, on careful perusal of the material placed, prima-facie came to the conclusion that there is

prima-facie ground to presume that the petitioner committed the offence for which he has been charged.

At the time of framing of the charge, the evidence is not required to be meticulously examined. If the court comes to the conclusion that there are grounds to presume on the basis of material before it that the accused have committed offence, then the charge is to be framed. The petitioner has already availed one remedy of revision and in the garb of a petition under Section 482 Cr.P.C. seeks second revision. Even on merit, the petitioner has no case. It cannot be said that the orders impugned would result in serious miscarriage of justice or abuse of process of any Court.

The petition has no force and it is therefore, dismissed. Record of the court below be returned forthwith.

(H.R.PANWAR),J.

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